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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF OREGON
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15 BRIAN HAGEN,

O R D E R
Civ. No. 06:10-CV-6100-AA

16 Plaintiff,

17 vs.

18 CITY OF EUGENE, PETE KERNS,
19 JENNIFER BILLS, AND TOM EICHHORN,

20 Defendants.

21 AIKEN, Chief Judge:

22 Plaintiff filed a motion for attorney's fees and costs.
23 Defendants object to plaintiff's fee request but do not oppose
24 plaintiff's Bill of Costs.

25 On March 23, 2012, judgment was entered in favor of
26 plaintiff in accordance with the jury verdict. The case was
27 brought pursuant to 42 U.S.C. § 1983. Pursuant to 42 U.S.C. §
28 1988(b), the court, in its discretion, may award reasonable

1 attorney's fees to the prevailing party for actions brought under
2 section 1983.

3 Plaintiff moves for attorney's fees in the amount of
4 \$108,114. Plaintiff requests reimbursement for 292.2 hours at
5 \$370.00 per hour. Defendants do not oppose the number of hours
6 incurred by plaintiff, but do oppose the hourly rates requested.
7 Plaintiff relies on the 2008 Oregon State Bar Economic Survey
8 holding that 78% of the respondents with experience commensurate
9 with plaintiff's counsel bill between \$200 and \$400 per hour.
10 Therefore, plaintiff argues that \$300 per hour is a reasonable
11 hourly charge. However, based on the "specialized training and
12 experience" brought to this case, plaintiff argues that an upward
13 adjustment to \$350 per hour is reasonable. Adjusting for
14 inflation, the reasonable hourly rate becomes \$369.95 per hour
15 (inflation rate of 5.7% in 2012) multiplied by 292.2 hours for a
16 total fee request of \$108,099.39.

17 Defendants, on the other hand, argue that the Oregon State
18 Bar's 2008 survey of the OSB Civil Rights section notes that the
19 average hourly rate for First Amendment litigation was \$225 to
20 \$274 per hour.¹ Defendants suggest an hourly rate of \$250 in 2008
21 dollars, adjusted for inflation, would be an appropriate rate.
22 Applying the 5.7% inflation rate, the rate suggested by
23 defendants is \$264.25 per hour multiplied by 292.2 hours for a
24 total fee award of \$77,213.85. I note, however, that the OSB
25 Civil Rights Section survey shows that 45% of the respondents
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27 ¹ Defendants also cite to a 2007 Economic Survey by the Oregon
28 State Bar. The court will disregard this survey as it was supplanted
by the 2008 Oregon State Bar Survey.

1 reported a hourly rate of \$200 to \$299, and 27% of the
2 respondents reported a hourly rate of \$300 to \$399. Given the
3 fact that plaintiff's counsel has 28 years of litigation
4 experience, it is reasonable that his fees fall within the \$300
5 to \$399 respondent category.

6 Therefore, I find that \$300 per hour is a reasonable hourly
7 fee charged by plaintiff's counsel. I also find it reasonable
8 and appropriate to adjust upward his fee by \$50 per hour due to
9 the specialized training and experience he brought to this case.
10 That results in a total hourly charge of \$350 per hour. Adding
11 in the 5.7 percentage rate for inflation, a reasonable hourly
12 rate for legal services by plaintiff's counsel is \$369.95 per
13 hour. The attorney hours worked in this cases total 292.2,
14 multiplied by \$369.95 per hour, results in a attorney fee award
15 of \$108,099.39.

16 CONCLUSION

17 Plaintiff's motion for attorney's fees (doc. 110) is granted
18 in the amount of \$108,099.39. Plaintiff's Bill of Costs (doc.
19 111) is granted in the amount of \$1319.31.

20 IT IS SO ORDERED.

21 Dated this 5th day of June 2012.

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25 Ann Aiken
26 United States District Judge
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